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APR 04 2006

In re Application of	:	<b>OFFICE OF PETITIONS</b>
Gregory Collier et al	:	
Application No. 10/039,050	:	DECISION ON PETITION
Filed: December 31, 2001	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 12785	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed November 7, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of prior-filed provisional Application No. 60/141,441, filed June 29, 1999, as set forth in the concurrently filed amendment.

The petition is **GRANTED**.

This nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

The petition under 37 CFR 1.78(a)(6) must be accompanied by:

- (1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the nonprovisional application seeking the claim for priority under 37 CFR 1.78(a)(6) must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application or the intermediate application claiming the benefit of the prior-filed provisional application must have

been filed within twelve months of the filing date of the prior-filed provisional application and the filing fee paid in the provisional application.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 119(e) to the above-noted, prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

**The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.**

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3218. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being referred to Technology Center AU 1647 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.



Frances Hicks  
Petitions Examiner  
Office of Petitions

**ATTACHMENT:** Corrected Filing Receipt



## UNITED STATES PATENT AND TRADEMARK OFFICE

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/039,050	12/31/2001	1647	2868	12785	20	89	12

CONFIRMATION NO. 2282

Leopold Presser  
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 400 Garden City Plaza  
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CORRECTED FILING RECEIPT



\*OC000000018447250\*

Date Mailed: 04/03/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

**Applicant(s)**

Gregory Collier, Ocean Grove, AUSTRALIA;  
 Paul Zev Zimmet, Toorak, AUSTRALIA;  
 Kenneth Russell Walder, Ocean Grove, AUSTRALIA;  
 Kelly Fiona Windmill, Newtown, AUSTRALIA;  
 Janine Susan McMillan, Torquay, AUSTRALIA;

**Assignment For Published Patent Application**

AUTOGEN RESEARCH PTY LTD., MELBOURNE, AUSTRALIA

**Power of Attorney:**

Edward Grolz--33705

**Domestic Priority data as claimed by applicant**

This application is a CON of PCT/AU00/00786 06/29/2000  
 which claims benefit of 60/141,441 06/29/1999

**Foreign Applications**

If Required, Foreign Filing License Granted: 03/21/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US10/039,050**

Projected Publication Date: Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Novel genes and their use in the modulation of obesity, diabetes and energy imbalance

**Preliminary Class**

514

## **PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES**

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at <http://www.uspto.gov/web/offices/pac/doc/general/index.html>.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, <http://www.stopfakes.gov>. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

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